

Indictment for Murder.

Trial of Lyman W. Pomeroy, of Forks of Santiam, at a Special Term of the Circuit Court for Linn County, Oregon, upon an indictment for murder, (alleged poisoning of his wife, Oct. 15, 1859.)

[REPRODUCED SPECIALLY FOR THE "REGISTER," BY JAMES ELLIOTT, ESQ.]

HON. R. C. BOISE, Judge; J. C. POWELL, Prosecuting Attorney, and BEN HAYDEN, for the State; CRAYNOR and RUSSELL for the prisoner.

The prisoner being arraigned in Court was asked by the Judge whether he pleaded guilty or not guilty to the charge in the indictment. Plead "not guilty."

The Jury empaneled being Ellis L. Knox, John Isom, James A. Porter, M. A. Rogers, D. M. Bond, Thomas Riggs, Alfred Shelton, James Redpath, Henry A. McCartney, W. H. Vallandigham, R. M. Elder and Ninard Price.

REV. JOAB POWELL sworn for the State: I have been acquainted with the prisoner at the bar since 1859, and was acquainted with his deceased wife and his present one. They were my nieces. Pomeroy's house then was about a half a mile from Providence Church, in Linn County. About the 15th of October, 1859, we had a night meeting at this church, and had a considerable congregation. We met about dusk and "Joems" Dorris was pastor, who had a "gift" and was invited into the stand. (I am not going to preach now, only going to bear testimony.) He gave out a hymn and offered prayer, after which I was talking to the congregation. All at once I heard a voice and knew it was Pomeroy's, which sounded like he had come in a hurry to the steps. He said "Father, come quick, my wife is poisoned! I want you to come quick!" The congregation arose to break, and I told the people I would go down and see what was the matter and send back word. When I went out he was gone, and before I got to his house some few persons had got there. I went to the bed-side of my niece (Pomeroy's wife), and found her lying upon her back with her head thrown back upon her pillow, and she looked just like a corpse. Pomeroy was at the bed-side and seemed just as uneasy as a man could be. Some one said that Calavan had once inhaled strychnine and was given gum camphor and was relieved immediately. I then called for some camphor. Pomeroy was still standing at the bed, when he (Pomeroy) said "I drunk most all and she drunk a little of it." I had thought may be she had inhaled poison, but when he said what he then did I changed my mind and thought perhaps she had accidentally drank poison. She spoke and said, "Uncle, you are an old man and what you do, do quickly!" I called for the camphor, and it was brought in a black bottle, and I poured into a tea-cup what would make a dram (drink) and said I here. She opened her mouth and drank a good swallow. She did not struggle, and I saw that she was nearly gone. She did not belch, but the camphor run out of each corner of her mouth. She laid quite still and drew one breath and probably tried to draw another. I see she was gone. I placed my fingers upon her eye-lids and closed them. Pomeroy was on my right. Said he, "Is it possible my wife is dead?" I said nothing. He fell upon the floor and kicked around and I supposed he had some to. I took him by the arm and said, let us take him to bed. He was struggling, and we took him to a room. About this time my brother-in-law, John Beeler, and his wife (my sister, and mother of deceased) came in, very much excited, when my sister fell down and cramped; and Pomeroy falling as he did, I did not know but what some evil was befalling the whole house. Mr. Garland came in about this time and said warm lard would kill strychnine. We got some lard and went to Pomeroy's bed to give it to him, but he did not like to take it, but they put it into him. But just before we gave him the lard John Beeler (my brother-in-law) said, what does this poisoning mean? I said, God only knows, I don't. By this time there was a great excitement out of doors. I went out to see what the matter was when Amanda Curl said, father, I always told you my soul was not worth anything but now I realize that it is. Pray for me. I prayed for her, and soon we went in to see Pomeroy. He was in his bed looking around, and said that he felt better, and said "Uncle, is my wife dead?" He was answered that she was. Then he cried, and I believe shed tears. I asked him then what that was he "drunk most all of." He said it was a "sling." I did not understand what he meant by that, and then he said, an alcohol stew. That night he told me he had got strychnine of father Beeler to kill squirrels that were eating his harness, and that he gave it to his wife to mix up; that he did not know how much it took, but that she had given her father make it up, and so he gave it to her to mix. Said I, your wife ought to be laid out, and has she got any clothes? Said he, "They have sent for a Doctor." But I did not see any need of a Doctor, and Mrs. Ray was sent to lay her out. I told Pomeroy that I would send to Seio so that Dickey could make her coffin. Gentlemen, I make this remark: I believe she was poisoned from what he (Pomeroy) said; his changing around from the mix-up to sling showed a dark place. I have no reason to believe that that man would poison my niece, when he had one child by her and it looked like they were to have another soon. I tried to hope he was clear of any wrong in the matter, yet my impressions were not reconciled. John Beeler (the father-in-law) said "something was not right." Well, they

(Beeler and wife) and I, left—they took the child home. I am about through, gentlemen. Yes, going by to my appointment w. y above there, I came by Pomeroy's and went to the side of the deceased as she lay in her winding sheet, and took a look at her. She was rather swelled about her neck and under her ears, with spotted places on her face. She had a different look on her countenance, unlike any corpse I had ever seen; having bloody spots like. She did not have convulsions before she died. Don't think she lived over a fourth or half hour after I had got there the night she died. Her head seemed thrown back—nothing like drawn back. She was not undressed. She said nothing to me about a "sling."

Yes, we had a meeting at Albany in the Baptist church the week Pomeroy was arrested. After church he came to the stand and said he wanted to talk with me; he said he would be at the Court house, and I met him there. He asked me this question: "Did I not say when I came up to Providence church that time that I fear my wife is poisoned—He then said my evidence would be the hardest of any against him."

No. He did not ask me to modify. He said he heard there was going to be some kind of proof of an intimacy between him and his second wife. That if so, it could be but a friendship or an intimacy by her moving in with the family. [Ruled out.]

CROSS EXAMINATION. Yes, I am positive as to what Pomeroy said at church—"That she is poisoned, father, come quick! my wife is poisoned and I am afraid she is going to die." I could hear very good them days; he might of had other words in. From the door where he stood to the pulpit is about 47 feet. She was lying on the bed on her back, head back on the pillow; was quiet till the camphor was given and lived perhaps a half minute before she belched it up. The peculiarity was a purple or spotted look and the countenance different from any one I ever saw. Yes, he said "can it be possible my wife is dead?" He knew it as well as I did; I had said his wife was dead.

Yes, we packed him to bed and gave him the lard as soon as it was warmed. I helped to drench him with lard; did not say I drenched him. Oh, yes, you lawyers could write anything down. Likely some witness will tell you he spewed it onto his coat. He shook his head when he took it. It was after he took the lard he said he had taken the sling; said he had a bad cold and made up a sling of alcohol warm stew; that he drank most all of it and his wife drank the balance. Nothing about any one else. There was no one by, this time, but myself and Pomeroy. He had said this before when a good many were present. I went away before any Doctor come. I tried to be Dr. myself. I gave her the camphor from a tea-cup—a swallow or more. In a half a minute she belched it up. Gave it but once; Pomeroy was present.

JOSEPH BEELER sworn for the State: The deceased was my sister. I knew the prisoner at the time of her death. Don't know what my age was then, but remember the circumstances well. Pomeroy was at my father's that day about sun down; he had been working some days for us. He lived about three-quarters of a mile from us. Pomeroy got strychnine of father that evening; it was in a small vial; did not hear him ask for it. Heard father tell him to be careful. Did not hear Pomeroy say for what purpose he wanted it. Was at church when Pomeroy came to give the alarm; heard him say then that she inhaled it. I saw Pomeroy's harness at father's some time after; did not examine them; afterwards saw them, they showed no appearance that rats or squirrels had gnawed them.

CROSS EXAMINATION. I was about 14 years of age then I think. Don't recollect the harness well, could not say that the lines were spliced; could not say positively that the harness I speak of were Pomeroy's or not, but think they were. I was in the church when Pomeroy came; don't know that it was fenced. He did not get off his horse. He came close to the door. The words he used with strychnine I did not understand, but he said "she was poisoned; she inhaled it." He told it to the crowd. Can't say that I am friendly with Pomeroy; don't know how long since I became unfriendly with him.

Question—Is it as much as five or six years? Yes, since the time his wife died. Yes, we treated him friendly when he and his child lived at our house, and up to the time of his second marriage.

Re-Exam.—Yes, the harness were mended before she died. No, did not entertain very friendly feelings toward the prisoner after she died and before his second marriage.

By Defence—No, I said I was friendly up to his second marriage. I could be kind to him but did not like him. They were not mended because I worked the harness. JOHN N. BEELER, for the State: I was acquainted with Pomeroy in 1859; it was in Santiam, in this county. He worked for my father in the fall of Oct. that year 5 or 6 days. I don't remember the day his wife died, but I was at his house at the time. That day he was at father's till evening, putting up ceiling, and we see him crying. Father asked him if he was sick. He said no, and went out doors, and shortly came back and was working and crying again, and before he went home I heard him ask father for some strychnine. He asked him what he wanted of it, and he said to kill squirrels that were eating his harness. Father said he would rather not let him have it, and Pomeroy said he would not take it into his house, and the old man went and got it and gave it to him. I did not see it; it was rolled up in a paper; and Pomeroy left shortly for home

which was a half mile off. Father and I were the only ones who knew where it was buried down in the orchard. I was in the church that same evening, and Uncle Joab was talking. I heard Pomeroy when he came up and some remarks in regard to dying, and Uncle Joab said to morrow you die, when Pomeroy said yes, she is dying. When I got to Pomeroy's house Sarah was in a spasm; I heard her screaming before I got in the house. She knew me, and said Lord, John, what is the matter of me? I have not eaten or drank anything but a sling Lyman gave me. Uncle Joab was there at the time and I heard him ask Pomeroy what it was. Pomeroy said he made a sling and he and the little boy drank of it and Sarah drank the balance, or nearly all of it. He said so several times. Pomeroy seemed crazy at this time and fell sprawling close to the fire, and was mowed around from it. A number of persons were there. She had several spasms. I heard her remark to Uncle Joab, "You are an old man, what you do do quickly." She did not live over 15 or 20 minutes. I arrived at the house before Uncle. I heard Pomeroy make a remark that evening that he was not sick. He had not any grain in his barn. His harness was there; I had worked them on the horses several days before, and the day before his wife died; I don't think the harness were eaten any by the squirrels; they were old harness—fuzzed and broken up a good deal. I was at the barn frequently; I saw no squirrels about there except "Chip Mucks."

CROSS EXAMINATION. I was about 21 years old in 1859. Pomeroy was being ceiling our dwelling house then. He went out twice crying, but said he was not sick. I knew it was strychnine for I went with father part of the way when he put it back in the hole in the ground. It was in a vial in a paper. I would not swear that he did not give Pomeroy a bottle, because I did not see what was in the paper. Father had the bottle in one hand and gave Pomeroy something rolled in a paper.

Yes, I saw the bottle opened and saw something poured out into a paper and given to Pomeroy, and father took the other bottle back to the hole.

Ques. by Juror—No, father tore the paper in two; the bottle was in one paper, and I couldn't swear which one Pomeroy got. In response to Uncle at the church Pomeroy said, "Yes, Sarah is dying, and will be dead before morning." Three of us arrived at the door about the same time—Louden, myself and Prine—yes, and Jack Miller. She was screaming before I got there and screamed after I got there. She would be still and quiver and then scream. Was there probably 15 minutes when Uncle Joab came. I did not say that she said the baby drank some, but that Pomeroy said so. When Pomeroy shrank down his head fell near the hearth, which was 5 or 6 minutes after I got there. He acted as if he had spasms. I did not rush out with the baby immediately, or take it home. Saw my mother cramp at Pomeroy's in the chair. Sister lived probably 15 minutes after I got there. Heard Pomeroy say he did not want medicine, he was not sick. Did not see the harness that night nor for some time after she died; think they had been repaired some. No, have not been friendly with Pomeroy since the death of my sister, though I would not harm a hair of his head. He and child were at father's part of the time after his wife died, and we were not on friendly terms with him. Don't say I did not write a letter to him when he was out South, in 1860, or that I wrote him to pray for me.

[Here a letter was read, exhibiting the usual friendly relations existing between relatives.]

Re-Exam.—Yes, I wrote the letter. I had a great deal to contend with at that time is the reason I wrote it. I wanted my sister's body examined before she was buried. Could not get any of the church to help me in the matter.

R. W. POWELL, for the State: I was at the house of the prisoner the night his wife died, in 1859, and also at the church when he rode up, and heard him exclaim "Oh, Uncle! Oh, Uncle! my wife is poisoned with strychnine—come and help me, quick!" I went with the crowd to Pomeroy's house and went up to Sarah's bed, when she seemed to be in considerable agony; struggling and jerking, once in a while drawing up and quivering; after that she lay quiet. I remember that she said, "Oh, Lyman, love, don't touch me, it hurts me so!" I heard her say "Uncle, you are an old man, if you know anything do it quick." Saw prisoner at that time; heard him say "I drank more of it than she did." He about that time shrank on the floor. Several persons were present, of whom was J. N. Beeler, Barbary Powell, Joab Powell and a boy we called little "Don't Prine." Pomeroy was taken to bed, and there he acted a little like Sarah did; we gave him some warm lard. He got up before I left. I was in his room about the first of his sickness. I heard Pomeroy once say, when on our road to a meeting on the Calapooia, "how can they make anything out of this sling matter? I drank more of it than she did."

CROSS EXAMINATION. I am 27 years old since last June; am a cousin to the Beeler's and grand-son to Joab Powell. Yes, I heard Pomeroy say "Oh, Uncle, come quick, my wife is poisoned." Am not positive as to the exact words, but it is as I understood him. He came as if on horse-back; did not see him then. I remained at the church about two minutes, and with my aunt went on horse-back in a lode to Pomeroy's, and she went into the house before I did. Five or six were in the house; saw John N. Beeler, Dorris and John Cleland there, but Uncle Joab was not in at that time. Sarah was making a kind of shiver or jerking; stretching or drawing up like, but not a great while. She lived some time for the agony she was in; per-

haps 10 or 20 minutes. Yes, I was there when she said "Uncle, you are an old man, etc." It was just after Uncle gave her the camphor, or something, that Pomeroy said he drank more than she did. I was present, or near by, when she died; Pomeroy sank toward the floor near the bed-side. Our idea was that he was strychnined when we gave him the lard. He got up I think between 12 and 2 o'clock that night. Can't say that I entertain kind feelings toward him at this time; have had no difficulty with him. I have not talked this matter over with the prosecuting witnesses. I have given \$2 50 to aid in the prosecution; but my object was to have the case investigated since it came from the Grand Jury. I was aware that the other side would have competent counsel.

Re-Exam.—I have no evidence of his intimacy with his second wife prior to the death of Sarah, other than they being together often and joking each other.

Mrs. LUCINDA STRINGER, for the State: I was stopping at Pomeroy's house on the day of the evening his wife died, in 1859. She was my sister. Pomeroy was working at my father's, and came home about ten minutes before sundown. He told me to get my bonnet and go home, that there would be meeting that night and he wanted me to go to it. I told him I would rather stay with Sarah, that I did not wish to go to meeting. He said to hurry, that it would soon be dark, and did not give any other reasons. His horse was hitched in the lane, opposite the door, with saddle on; he talked about his going to the meeting and I left, just as the sun was setting. My mother had sent me to Pomeroy's in the morning, to stay all day and night with sister. I went to church, about half a mile from home, and while there heard Pomeroy say something when he came up, but can not give his language. I went to the house with the rest from the church, and soon saw his wife; she was lying on the bed stretched out like, struggling and jerking; she called for something, I don't know what; heard nothing about sling; saw Pomeroy, but don't remember that he said anything; I don't think she was alive a minute after I got there.

CROSS EXAMINED. I was about twelve years of age then; I was to Pomeroy's in the morning; was living at home, but sent to stay with sister. (Mrs. P.) as she was afraid to be left alone, and I was to bring word if she was sick or anything. He rode from father's; the distance was short; I thought he could have walked to the church; it was only a half mile to the church, and from father's to his house around the road, three-quarters of a mile. I have resided at Pomeroy's since his second marriage, and have been treated kindly, and my feelings toward them have been kindly until lately; all but father, then, were on good terms with them. Mr. Carter never asked me what I was to swear; several have spoken to me on this case; nothing written down.

Mrs. JANE BEELER, for the State: I am the mother of the deceased, and also of Pomeroy's present wife. He was ceiling our house overhead the day of the evening his wife died. He told me that Sarah had become alarmed about herself. I told him to cheer her up, as she was about to be confined; that many a woman if encouraged would go through such trials much better. Pomeroy afterwards said something about strychnine; my husband asked him if he wanted some; he said yes, to kill squirrels with—and the man went after it for him, and then Pomeroy went home. A little after dark, James Malone came and told us that Pomeroy and his wife were poisoned, was the way we got the news; we both started, and were met and told that Sarah was dead, and when we got into the house, she was lying on a plank, dead. Mr. Garland told us that he thought Pomeroy would die, too. I examined the body the next morning; she appeared much swollen and very pided—spotted like; she had been in good health, quiet, and I had been helping her; was as cheerful and stout as common; she was as healthy as any girl I knew of; there was nothing the matter of her except her then peculiar condition. Lucinda is my daughter; sent her to stay with Mrs. P., as I thought she would be lonesome while he worked at our house; I did not want her to come home when she did, because he had talked of going to church. The first I saw of Pomeroy was just before day, with a white handkerchief around his head; he said nothing to me that I know of. I paid no attention to any intimacy at that time, of Pomeroy with Almira, his present wife. He lived with us much like our other boys—I did not think much about it.

CROSS EXAMINED. I am old and very forgetful, and desire not to be questioned more than you can possibly do with. [The defense assured her they would be brief.] No, have not talked with any one what I should swear to. The deceased was lying on a plank; I did not look at her features that night; I was so exhausted when I arrived, and was so shocked, that I knew but little, and also took a cramp; my husband kept strychnine hid in the orchard; am not positive that he gave Pomeroy any, but thought he did; my husband cautioned him about using it, and told me that Pomeroy wanted to kill squirrels; that there was but little in the bottle. I entertain no unkind feeling towards Pomeroy, and don't want him punished, but if he is guilty I could not think well of him; yet there is something so dark that I could not see into it. Pomeroy that night asked me to keep the child; he lived at our house with it, and I kept the child till his second marriage. Yes, I thought he was a good man, but felt that there might be something wrong. This case would have been brought up before if we had thought there would have been so much proof. Carter never asked me what I could swear to; I have not been at his

house for three years. PETER W. BEELER, for the State: The deceased was my sister; I saw her that day about three quarters by sun, at a distance, while passing. She was in the door singing. I thought some of stopping in, and when I approached she observed me and waived her handkerchief. I saw the deceased next day; she appeared very much swollen, and purple spots like on her cheek. I heard Pomeroy say that this thing (death) should have passed his house. Don't know of any improper intimacy between Pomeroy and second wife before the decease of my sister.

Ww. F. BEELER, for the State: I have seen an intimacy between Pomeroy and his present wife before the death of his first one. I heard him call his present wife his "true love" about four months before his first wife died, at father's, in a room. I was at the foot of the bed and he was lying on it, his present wife was passing in and out. His first wife was in the house not far off. I saw no acts.

CROSS EXAMINATION. I was about 17 years old at that time. I thought it was a wrong intimacy when I heard it and have had no warm feeling for Pomeroy since that time.

Yes, we have had a difficulty; he intruded on me. Yes, I have contributed \$20 toward this prosecution. I have not been approached as to what I would swear before the Grand Jury. The matter has been talked over by brothers and sisters since the trial commenced.

REV. S. H. MILLER, for the State: Since Pomeroy's second marriage we were talking. He suggested that it was doubtful about his wife dying from strychnine. I said to him that if the stomach was examined it would show strychnine. He said it might, but said he "I can't say how she got it." He said that he had made a stew and drank part of it and gave some to the child and she took the balance.

CROSS EXAMINATION. Yes, I stated to Pomeroy in that conversation that I did not believe that he administered any poison to her.

J. J. DORRIS, for the State: I am acquainted with the prisoner since 1859, and was at the church spoken of when he came to give the alarm of his wife's dying. I went to his house and there saw Mrs. Pomeroy lying on a bed. I saw no particular struggling of the body except perhaps a twitching of the face; she did not live long after I arrived, and when she died it was then I think that I heard Pomeroy exclaim "Oh, my Lord! has death come into my house?" I saw him next in his bed room. I did not hear him say anything about a sling.

CROSS EXAMINATION. I heard some one at the church say they had fears that Mrs. Pomeroy was poisoned or dying. I saw nothing unnatural with the body except twitching about the face, and did not observe any convulsions. Was present when the lard was given him. I was reclining about the foot of the bed and had the grease in my hand. In his struggling he kicked it out of my hand. It was Uncle Joab I think who administered it.

PETER POWELL, for the State: As to an intimacy between Pomeroy and his present wife before he lost his first one, I will say there were a protracted meeting that fall before his wife died at Providence church; Almira, who is now his second wife, was a mourner and deeply concerned; after meeting were over, I was outside not far from the door, when Almira came out and sat down not far from the corner of the house, having her head down, seemingly in great trouble; I was near; Pomeroy came out to talk with her; he said, "Almira, you know I always loved you." I thought that was a queer expression; didn't know what to make of it.

CROSS EXAMINED. Yes, I heard that he was an exhorter.

Ques.—Is it not common for ministers and exhorters to say "I love your soul," and the like?

No, it is not uncommon as to the soul; but as to "you know I always loved you," I think not.

Pros. Atty.—Is it common in church for the preachers or exhorters to say to the sisters, you know I always loved you? No, I don't think it is, and much less for them to follow them outside and say "I love you."

A. J. SMITH, for the State: Pomeroy told me about two weeks after his wife died that he did not know how she got the strychnine, for he and the child drank of the sling. He said he raised the alarm that she was poisoned. As to any intimacy, I saw him one night at a party at Bob Watkins' lead his wife off to bed and when he came back he took his second wife on his lap, and she sat there quite a spell; I thought nothing of it but friendship. I was trying to make some music for the dance. At Mr. Beeler's before his wife died Pomeroy came into the house and spoke to Mr. B. and then went into a room where the girl was, and out again, and took her off with him after night.

CROSS EXAMINATION. His wife had gone to bed for the night at the party. As to the girl afterward setting on his lap I thought nothing of it, only that there were plenty of vacant seats in the house. I thought he had a right to take the girl from her father's that night, but thought it strange to take her away from a suitor who was there. I was not the suitor. I saw him take her off to a meeting up on the Calapooia, when I thought he ought to be with his wife. I was in the barn at the time they were passing; they seemed to be joking each other and laughing; I looked thro' a crack, but did not know them; I went to the door then and saw that it was Pomeroy and the girl; Bob Moore came up afterwards and told me that he met them and they were riding along very lovingly.

Mrs. B. F. CARTER, for the State: I am a sister to the deceased. Was sick

at father's, and saw Pomeroy there. He would go into Almira's room frequently and stay there some times longer than others; this was six or eight weeks before the death of his wife. His first wife was then visiting at Mr. Wheeler's, at Seio. I have seen him at father's come in from work and greet the girl as a man should his wife. Saw them in a little room talking low together, and when any foot-falls came on the floor they then would talk louder about "religion," "the whole heart," and of God. I saw him at father's after his wife's death; he seemed to be affected at times. He would converse with the girl when any opportunity, acting restless and uneasy. He said to me when I was going away, "sister, I am in so much trouble." I asked him if it was from the loss of his wife. He said no, "it was here—(striking his breast)—it was killing him, and none but God can remove it." He said that they thought that night he was strychnined, when nothing ailed him, and they poured some grease down him like a lot of fools.

CROSS EXAMINATION. I have seen his present wife go into the small room where he was frequently. I thought it strange. No, I did not remark of it to my sister or parents. It was older one's business and I thought they could not but have observed it. He was there harvesting. Yes, when they heard foot-falls they ceased whispering. She pretended to be seeking religion; Pomeroy had been a member of the church a short time. His wife was at Seio. Yes, greeted the girl as he should his wife—smiling like. She would say, you are tired Lyman, etc. Never saw such actions in the presence of his wife. Don't know that he went into the room for lunch, or why he should follow her in there. It was the second morning after the funeral he spoke of his trouble; he said his wife was better off than he, but the trouble in his breast was killing him. I was going home and went to speak to him before I left. I have nothing against him but this supposed poisoning and the actions with the girl and his marrying her. Believe he must have poisoned her. Yes, I spoke of their actions long before this trial. I heard members of the church say, let it go—hush it up—heard uncle Joab, Mrs. Sloan and others say so.

Mrs. Wm. RAY, for the State: I helped to lay out the deceased; she had a cloudy appearance; looked like she must have suffered a great deal; had a dark appearance, with a frown upon the face. The doctor come and inquired for the sick; no one answered. Something was said to him about Mrs. Pomeroy, and that there lay mother Beeler in a cramp. Said he, I did not come here to see the dead but the sick. Pomeroy came in and knelt down by the deceased; he was asked about burying his wife; he said, let it be just as uncle Joab says.

DANIEL POWELL, for the State: As to intimacy before his wife died, there was a circumstance eleven years ago next Christmas; was there and he and wife came from a party at Bob Watkins'. His wife was in the kitchen and Pomeroy went to a bed-room; his present wife went in where he was; saw him lying on the bed and she standing before him. I see him make a move with his hand at her person, with his finger this way—[here witness poked his finger at the lawyer]—they were there fifteen minutes. It was at his donation claim.

Yes, at Richardson's bridge, at a baptizing, saw an intimacy with his second wife, Pomeroy and her were standing along-side of each other and his wife standing back about four feet.

[This last extreme intimacy provoked laughter in court.]

CROSS EXAMINATION. No, I was not in the room where I saw the motions; saw this through the door. His wife was in the kitchen and her door was not opposite. I have nothing against him except the finger poking. Yes, said I would give \$25 toward the prosecution. There was a kind of list, or schedule of questions—Carter asked me what I could swear to in the case.

By the State—Now, sir, I want you to stand right before that jury and exhibit the manner of that finger poking.

[Here the witness promptly squared himself opposite a juror, showing his finger in close proximity with the gentleman's nose. An uproarious laugh ensued, and it was some time before His Honor recovered sufficiently to command order.]

Mrs. SUSAN RAY, for the State: I saw at Pomeroy's on the night his wife died, what they called strychnine. Mr. Garland took down a tea-cup from the mantle, and in it was about a teaspoonful of something white; not mixed up with anything; it was dry, not a liquid; I did not know what it was.

CROSS EXAMINATION. I never saw strychnine before; I did not taste it; Pomeroy frequently went to his dead wife and kissed her.

B. F. CARTER, for the State: I was acquainted with Pomeroy and wife in 1859, and prior to the death of his wife, I saw Pomeroy at Mr. Beeler's; he came in and walked about some; afterwards he went into a bed-room which has a window high up from the ground; I thought I observed him motion to some one, and presently Almira, his present wife, followed him in there. I had a conversation with him at the funeral when his wife was buried, at the ground; I was trying to console him in his trouble. He remarked that it was hard to lose his wife; that he was sorry she got that strychnine he intended to kill squirrels with. He thought she must have inhaled it, which caused her death.

CROSS EXAMINATION. I don't know who the prisoner motioned at when he was going in the bed-room. I have nothing against him but a suspicion of his guilt. I wrote down some statements which I heard would be sworn to before the grand jury. I have said I